

SCOPELITIS, GARVIN, LIGHT, HANSON & FEARY
James H. Hanson, Pro Hac Vice, Ind. Bar No. 08100-49
jhanson@scopelitis.com
Robert L. Browning, Pro Hac Vice, Ind. Bar No. 15128-49
rbrowning@scopelitis.com
R. Jay Taylor Jr., Pro Hac Vice, Ind. Bar No. 19693-53
jtaylor@scopelitis.com
10 West Market Street, Suite 1500
Indianapolis, IN 46204
(317) 637-1777
Fax: (317) 687-2414

Christopher C. McNatt, Jr.
Cal. Bar No. 174559
cmcnatt@scopelitis.com
2 North Lake Avenue, Suite 460
Pasadena, CA 91101
(626) 795-4700
Fax: (626) 795-4790
Attn: *for Plaintiff*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOSUE SOTO, GHAZI RASHID, MOHAMED)
ABDELFATTAH, on Behalf of All Aggrieved)
Employees, All Others Similarly Situated, and)
the General Public,)

CASE NO. 08-CV-0033-L-AJB

vs.
DIAKON LOGISTICS (DELAWARE) INC., a
foreign corporation; and
DOES 1 through 50, inclusive,
Defendants.

CLASS ACTION

DIAKON LOGISTICS (DELAWARE) INC.,
Counterclaimant,

**JOINT MOTION TO
CONSOLIDATE BRIEFING
SCHEDULES AND HEARING
DATES ON MOTIONS TO DISMISS**

vs.
JOSUE SOTO,)
Counterclaim Defendant.)

DIAKON LOGISTICS (DELAWARE) INC.,
Third-Party Plaintiff,

vs.)
SAYBE'S, LLC, ABDUL TRUCKING, INC.,)
and RASHID TRUCKING, INC.,)
Third-Party Defendants.)

Defendant/Counterclaimant/Third-Party Plaintiff, Diakon Logistics (Delaware), Inc. (“Diakon”) and Plaintiffs Josue Soto, Ghazi Rashid and Mohamed Abdelfattah, by and through their respective counsel, respectfully request that this Court consolidate the briefing schedule and

1 hearing dates on the presently pending Motion to Dismiss Amended Counterclaim as to Josue
 2 Soto and Motion to Dismiss Third Party Complaint of Diakon against Saybe's, LLC, Abdul
 3 Trucking, Inc., and Rashid Trucking, Inc. so that both motions are briefed for an August 11,
 4 2008, hearing date and set for an August 11, 2008, hearing, for the following reasons:

5 1. Plaintiffs have filed in this action as Docket Entry No. 41, Plaintiffs' Motion to
 6 Dismiss Amended Counterclaim as to Josue Soto Pursuant to Fed. R. Civ. P. 12(b)(6), and have
 7 set the hearing date for the motion as July 21, 2008.

8 2. Plaintiffs have filed in this action as Docket Entry No. 43, Plaintiffs' Motion to
 9 Dismiss First Amended Third Party Complaint of Diakon Logistics (Delaware), Inc. against
 10 Saybe's, LLC, Abdul Trucking, Inc., and Rashid Trucking, Inc., pursuant to Fed. R. Civ. P.
 11 12(b)(6), and have set the hearing date for the motion as August 11, 2008.

12 3. The two pending motions raise substantially similar challenges to Diakon's
 13 Counterclaim and Diakon's Third-Party Complaint, and it would conserve both the resources of
 14 this Court and of the parties if the briefing schedules and hearing date are coordinated.

15 WHEREFORE, Plaintiffs and Diakon respectfully request that the hearing on Docket
 16 Entry No. 41, Plaintiffs' Motion to Dismiss Amended Counterclaim as to Josue Soto Pursuant to
 17 Fed. R. Civ. P. 12(b)(6), be continued to August 11, 2008, to be held in conjunction with the
 18 hearing on Docket Entry No. 43, Plaintiffs' Motion to Dismiss First Amended Third Party
 19 Complaint of Diakon Logistics (Delaware), Inc. against Saybe's, LLC, Abdul Trucking, Inc. and
 20 Rashid Trucking, Inc. Pursuant to Fed. R. Civ. P. 12(b)(6), and that the briefing schedule be
 21 coordinated on the two motions so that oppositions are filed and served no later than July 28,
 22 2008 and replies are filed and served no later than August 4, 2008.

23 Respectfully submitted:

24 Dated: June 24, 2008

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 26 SCOPELITIS, GARVIN, LIGHT, HANSON
 27 & FEARY, LLP

28 By: /s/ Christopher C. McNatt, Jr.
 Christopher C. McNatt, Jr.
 Attorneys for Defendant, Counterclaimant,
 and Third-Party Plaintiff Diakon Logistics
 (Delaware), Inc.

1
2 Dated: June 24, 2008

EMGE & ASSOCIATES

3 By: /s/ Derek J. Emge
4 Derek J. Emge
5 Attorneys for Plaintiff, Josue Soto, Ghazi
6 Rashid, Mohamed Abdelfattah, On Behalf
7 of All Aggrieved Employees, All Other
8 Similarly Situated, and the General Public

9
10 CERTIFICATE OF SERVICE

9 I hereby certify that a copy of the foregoing has been served electronically via the court's
10 ECF system upon the following counsel of record, this 24th day of June, 2008:

11 Todd J. Hilts
12 Law Office of Todd J. Hilts
13 2214 Second Avenue
14 San Diego, California 92101

Derek J. Emge
Emge & Associates
550 West C Street, Suite 1600
San Diego, California 92101

15 David A. Huch
16 Law Offices of David A. Huch
17 7040 Avenida Encinas, Suite 104
18 Carlsbad, California 92011

Issa Michael
The Michael Law Firm
1648 Union Street, Suite 201
San Francisco, California 94123

19 /s/ Christopher C. McNatt, Jr.
20 Christopher C. McNatt, Jr.

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